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April 19, 2024

VIA CM/ECF

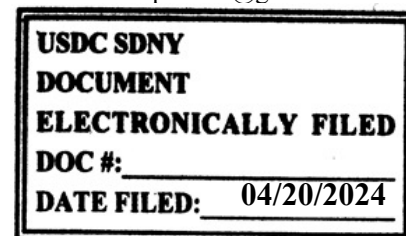
Honorable Katharine H. Parker, U.S.M.J.

United States District Court

Southern District of New York

500 Pearl Street, Room 750

New York, New York 10007



MEMO ENDORSED

Re: Smith v. Akela Contracting LLC, et al., Civil Action No: 1:22-cv-01185-VSB-KHP

Dear Judge Parker:

Our offices are counsel to defendants/third-party plaintiffs, Akela Contracting LLC (“Akela”), Akela Contracting/Civetta Cousins JV, Joint Venture, LLC (the “JV”), and Karine Williams (“Ms. Williams”, and, together with Akela and the JV, the “Akela Defendants”), in connection with the above-referenced action. We write, in accordance with Rules I.a. through c. of Your Honor’s Individual Practices in Civil Cases, and on consent of counsel to all parties to the prime action,¹ to respectfully request that the follow-up settlement conference presently scheduled for April 25, 2024, at 2:00 p.m., be adjourned by sixty (60) days, or to the next available date thereafter that is convenient for the Court.

On March 13, 2024, Plaintiff, various Opt-In Plaintiffs, the Akela Defendants, and the JDV Defendants, together with their respective counsel, appeared before Your Honor for a settlement conference.² Those proceedings, while certainly helpful to the extent of further crystalizing the

¹ The parties to the prime action are: named plaintiff, Anthony Smith (“Plaintiff”), opt-in plaintiffs, Celia Antonio, Gladys Bautista, Norma Boni, Carla Castro, Wendy Coronel, Remel Darden, Elvia De La Cruz, Marcia Figueroa, Oscar Figueroa, Yessica Figueroa, Lourdes Galarza, Ruth Galarza, Obdulia Rosales Garcia, Maria Jose Hernandez, Shane Johnson, Lisseth Roman Marin, Punu Lucia Mashiant, Abraham Merchant, Paris Moody, Aracely Naranjo, William Penzo, Frank Petrone, Lizette Proano, Ysabel Ramirez, and Sandra Salinas (collectively, the “Opt-In Plaintiffs”, and, together with Plaintiff, the “Plaintiffs”), the Akela Defendants, and co-defendants, JDV Safety Inc., All Eyes On Safety Inc., and Brian McDermott (collectively, the “JDV Defendants”, and, together with Plaintiffs and the Akela Defendants, the “Prime Parties”).

² Although third-party defendant, The City of New York (the “City”), by and through the New York City Law Department’s Office of Corporation Counsel, appeared for the March 13, 2024, settlement conference, it was, and remains, the City’s position that, at least until such time as the Court shall have determined its motion to dismiss, it does not intend to contribute to any settlement to which the Prime Parties might otherwise agree in the interim, and for which the Court permitted Corporation Counsel to excuse themselves early from those proceedings. Indeed, it is

Prime Parties' litigation and settlement positions, proved somewhat short-lived, as the Prime Parties were, by day's end, considerably far apart in their respective valuations of the case, and, it would seem, unwilling to make any meaningful movement toward one another in endeavoring to settle the action. Accordingly, and little having happened in the interim to encourage the Prime Parties to budge from their respective positions at the conclusion of the prior settlement conference, the Akela Defendants are concerned that, absent some change in the status quo, the upcoming settlement conference is unlikely to prove productive, and for which request is hereby made that the Court afford the Prime Parties an opportunity to conduct the additional discovery that the undersigned hopes will enable them to more meaningfully engage with one another at the next round of Court-assisted negotiations.

For the reasons set forth above, the Akela Defendants would respectfully request, with the remaining Prime Parties' consent, that the Court adjourn the April 25, 2024, settlement conference by sixty (60) days, or to the next available date thereafter that is convenient for the Court. Please be advised, the relief requested herein will not impact any existing schedules or deadlines in this action. This is the Prime Parties' fourth request for the adjournment of a scheduled settlement conference, all of which were graciously granted by the Court.

We thank the Court for its time and consideration of the instant letter motion.

Respectfully submitted,

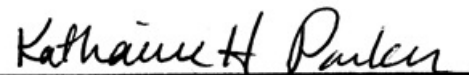


Previn A. Waran

cc: All Counsel of Record (Via CM/ECF)

APPLICATION GRANTED: The Settlement Conference in this matter scheduled for Thursday, April 25, 2024 at 2:00 p.m. in Courtroom 17-D, United States Courthouse, 500 Pearl Street, New York, New York is hereby rescheduled to Monday, June 24, 2024 at 10:00 a.m. Parties must attend in-person with their counsel. Corporate parties must send the person with decision making authority to settle the matter to the conference. Counsel for the Third Party Defendant are excused from attending this proceeding.

APPLICATION GRANTED



Hon. Katharine H. Parker, U.S.M.J.

04/20/2024

for this self-same reason that the undersigned did not feel it necessary to solicit the City's consent to the relief sought by way of the instant letter motion.